

1 Sean D. White (Bar No. 137200)
2 ARCHER NORRIS
3 A Professional Law Corporation
4 2033 North Main Street, Suite 800
5 P.O. Box 8035
6 Walnut Creek, CA 94596
7 Telephone: (925) 930-6600
8 Facsimile: (925) 930-6620

9 Attorneys for Plaintiff
10 THE INSURANCE CORPORATION OF NEW YORK

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13 THE INSURANCE CORPORATION OF
14 NEW YORK,

15 Plaintiff,

16 v.

17 FOOD SERVICE INSURANCE
18 MANAGERS, DWIGHT HALVORSON
19 INSURANCE SERVICES, INC., and
20 DWIGHT HALVORSON,

21 Defendants.

22 AND RELATED CROSS-ACTION.

No. CIV.S-04-1166 MCE GGH

**STIPULATION TO CONTINUE CUT-OFF
DATE FOR NON-EXPERT DISCOVERY;
ORDER THEREON**

23 This Stipulation is entered into by Plaintiff and Counterclaim-defendant THE
24 INSURANCE CORPORATION OF NEW YORK ("INSCORP") and Defendant and
25 Counterclaimant FOOD SERVICE INSURANCE MANAGERS ("FSIM"), and Defendants
26 DWIGHT HALVORSON INSURANCE SERVICES, INC. ("DHIS") and DWIGHT
27 HALVORSON ("Halvorson") through their respective counsel of record.

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RECITALS

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2 1. On August 24, 2004, the parties filed their Joint Status Report and FRCP 26(F)
3 Discovery Plan with the Court in the above-captioned matter. In that Report, plaintiff requested a
4 discovery cut-off date for non-expert discovery of April 20, 2005. Defendants requested a
5 discovery cut-off date for non-expert discovery of June 20, 2005.

6 2. On September 21, 2004, the Court its Pretrial (Status) Scheduling Order in this
7 matter. In the Scheduling Order, the Court ordered that all non-expert be completed by May 23,
8 2005.

9 3. INSCORP and FSIM have each propounded written discovery on each other.
10 INSCORP has responded to the written discovery propounded by FSIM. FSIM has responded to
11 the written discovery propounded by INSCORP. Issues remain between INSCORP and FSIM
12 regarding the sufficiency of the discovery responses. FSIM and INSCORP have been and
13 continue to engage in discussions in an effort to resolve these discovery disputes.

14 4. On December 28, 2004, FSIM noticed the following depositions: Bob Holland of
15 R. Holland & Associates; Deborah Duarte of INSCORP; the person most knowledgeable at Smart
16 & Associates; and Andrea O'Hagan.

17 5. The depositions noticed by FSIM were continued by agreement of the parties so
18 that the parties could participate in a dialogue to discuss the potential resolution of this matter.

19 6. On January 25, 2005, INSCORP'S counsel of record at the time, Michael Levin of
20 Barger & Wolen, wrote to FSIM's counsel Robert Franceschi to outline a proposal for a
21 settlement of this matter. That proposal called for, among other things, an accounting of the
22 subject insurance program.

23 7. On February 11, 2005, Robert Franceschi counsel for FSIM wrote to INSCORP's
24 current counsel to advise that FSIM is willing to discuss the items set forth in INSCORP's
25 settlement proposal, provided that INSCORP is willing to consider the matters raised by FSIM's
26 counterclaims. INSCORP'S counsel advised Mr. Franceschi that INSCORP is willing to address
27 FSIM's counterclaims in any settlement negotiations between the parties.

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8. Counsel for the parties discussed the structure for the settlement discussions, such as using the Court's voluntary mediation program or participating in a mediation with a mutually agreeable mediator.

9. The parties, through their counsel, continue to discuss the potential framework for a resolution of this matter as well as the most appropriate vehicle for reaching a resolution (i.e., mediation, an accounting with subsequent arbitration, etc.).

10. The parties desire to continue to engage in discussions regarding a potential framework for resolving this matter short of trial.

11. The parties also recognize the need to continue with non-expert discovery at this point. However, the parties will need a short continuance of the non-expert discovery cut-off date to complete that discovery.

WHEREFORE, the parties stipulate and agree to the following:

1. That the date for completion of all non-expert discovery be continued from May 23, 2005 to June 23, 2005.

DATED: May __, 2005

ARCHER NORRIS

By _____/s/_____
Sean D. White
Attorneys for Plaintiff and Counterclaim
Defendant THE INSURANCE
CORPORATION OF NEW YORK

DATED: May __, 2005

PORTER SCOTT WEIBERG & DELEHANT

By _____/s/_____
Carl J. Calnero
Attorneys for Defendant FOOD SERVICE
INSURANCE MANAGERS

DATED: May __, 2005

LAW OFFICES OF ROBERT J. FRANCESCHI

By _____/s/_____
Robert J. Franceschi
Attorneys for Counterclaimant FOOD
SERVICE INSURANCE MANAGERS

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CORPORATION OF NEW YORK

DATED: May __, 2005

LEWIS BRISBOIS BISGAARD & SMITH

By _____/S/_____
Thomas D. Nielsen
Attorneys for Defendants DWIGHT
HALVORSON INSURANCE SERVICES,
INC. and DWIGHT HALVORSON


ORDER

Good cause appearing therefor:

IT IS HEREBY ORDERED THAT the date by which the parties must complete all non-expert discovery, pursuant to this Court's Pretrial (Status) Scheduling Order, filed on September 21, 2004, is continued from May 23, 2005 to June 23, 2005. All other terms and provisions of the Pretrial (Status) Scheduling Order remain in force and effect.

IT IS SO ORDERED.

DATED: June 2, 2005


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE